

1 C.M.D., et al.,

2 No. C 12-1216 RS

3 v. Plaintiffs,

4 **ORDER LIFTING STAY AND
DENYING MOTION TO DISMISS
WITHOUT PREJUDICE AS MOOT**

5 FACEBOOK, INC.,

6 Defendant.

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8 As requested, the parties have submitted their positions as to how this action should proceed
9 in light of the judgment entered in *Fraley v. Facebook*, C 11-01726 RS. Facebook contends that
10 the stay in this matter remain in place while appeals in *Fraley* are pending. Plaintiffs oppose any
11 continued stay, and propose filing an amended complaint. While a stay was appropriate during the
12 pendency of settlement approval proceedings in *Fraley* given the overlapping issues in that matter
13 and the existing complaint herein, an extended stay of uncertain duration during appeal is not
14 warranted. Moreover, plaintiffs are proposing to amend their complaint, presumably to state only
15 those claims they believe remain viable after the *Fraley* judgment. Accordingly, it would be in any
16 event premature to conclude that there will still be material overlap between the two actions.17 The stay of this action is therefore lifted. Plaintiff shall file an amended complaint within
18 two weeks of the date of this order. A Case Management Conference will be held on December 12,
19 2013, at 10:00 a.m., subject to continuance in the event the pleadings have not been settled. The

1 pending motion to dismiss is denied as moot, without prejudice to Facebook's right to reassert any
2 arguments therein that it believes remain applicable after amendment of the complaint.

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4 IT IS SO ORDERED.
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7 Dated: 9/30/13
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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE